

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 2

January 29, 2018

SUBJECT: TAPE RECORDING OF COMMUNITY CONTACTS – RENAMED AND REVISED; AND, REQUEST TO USE A PERSONAL TAPE RECORDER, FORM 12.45.00 – RENAMED AND REVISED

PURPOSE: This Order renames and revises Department Manual Section 3/570, *Tape Recording of Community Contacts*, and the Request to Use a Personal Tape Recorder, Form 12.45.00, to conform to current Department terminology and requirements relative to recording community contacts.

PROCEDURE:

- I. TAPE RECORDING OF COMMUNITY CONTACTS – RENAMED AND REVISED.** Department Manual Section 3/570, *Tape Recording of Community Contacts*, has been renamed *Recording of Community Contacts*, and has been revised to conform with current Department terminology.

All recordings and images captured by employees during the course and scope of their duties are **confidential**, and **shall not** be used, copied, shared, or made public in any manner, except as required in the performance of their official duties, per Department Manual Section 3/405 and 3/566.10.

Attached is the revised Section with revisions indicated in italics.

- II. REQUEST TO USE A PERSONAL TAPE RECORDER, FORM 12.45.00 – RENAMED AND REVISED.** The Request to Use a Personal Tape Recorder, Form 12.45.00, has been revised and renamed Request to Use a Personal Recording Device.

FORM AVAILABILITY: The Request to Use a Personal Recording Device is available in E-Forms on the Department's Local Area Network (LAN). A copy of the form is attached for immediate use and duplication. All other versions of this form shall be marked "obsolete" and placed in the divisional recycling bin.

AMENDMENT: This Order amends Section 3/570 of the Department Manual. The "Form Use" link applicable to the Request to Use a Personal Recording Device is accessible in E-Forms on the Department's LAN.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



CHARLIE BECK
Chief of Police

Attachments

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570. RECORDING OF COMMUNITY CONTACTS. An officer in a uniformed assignment may use a personal *audio/video* recorder to record in-person community contacts at *his or her discretion*.

Exception: This section does not apply to an officer who has been directed by his or her commanding officer to carry a Department-issued audio recorder to record all duty-related community contacts while performing his or her duties.

Exception: Officers assigned Body Worn Video (BWV) equipment shall not use any other non-Department issued video or audio recorders, to record enforcement or investigative activities involving members of the public unless expressly authorized by a supervisor. Uniformed supervisory personnel, however, may use digital recording devices other than a BWV to record interviews when conducting use of force or personnel complaint investigations. Nothing in this provision precludes personnel from utilizing authorized still photography equipment.

The use of personal audio/video recorders to record in-person community contacts can be used as an investigative tool. When its use becomes part of a criminal investigation, the recording shall be booked. All recordings and images captured by employees during the course and scope of their duties are confidential, and shall not be used, copied, shared, or made public in any manner for at least two years, except as required in the performance of their official duties, per Department Manual Sections 3/405 and 3/566.10. In addition, employees shall not modify, edit, delete or destroy any captured recordings and/or images in any manner. Recordings of suspects' statements and recordings made during criminal investigations shall be made in accordance with existing law and procedures. Recordings involving Department proceedings shall be made in accordance with existing personnel practices and the Public Safety Officer's Procedural Bill of Rights.

Officer's Responsibilities. Uniformed officers wishing to use *their* personal *audio/video* recorder to record community contacts shall submit a Request to Use a Personal Recording Device, Form 12.45.00, to their commanding officer. Personal *recording devices* shall not be used without the approval of the concerned commanding officer. This approval shall remain in effect until the officer transfers to an undercover or plainclothes assignment or the approval is revoked. If an officer desires to resume recording community contacts after transferring back into a uniformed assignment, a new Request to Use a Personal Recording Device form shall be submitted.

Officers who obtain approval to use a personal *audio/video* recorder to *record in-person* community contacts and subsequently elect to discontinue the practice shall notify their commanding officer of this decision via an Employee's Report, Form 15.07.00.

Officers who use personal *audio/video* recorders to record community contacts are responsible for maintaining the *personal audio/video* recorder in proper working order, providing their own storage media (e.g., cassette tape, compact flash drive, compact disc), storing recorded media,

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and maintaining personal records to ensure *that recordings* of incidents are retrievable, if needed. Whenever recording an *in-person community contact*, officers shall:

- *If using a tape recorder, use only new blank cassette tapes until they become full. Once full, cassette tapes shall be retained and not erased or reused, for a minimum of two years;*

Note: Officers are encouraged to transition from using tape recorders to digital recorders, as the Electronics Unit, Technical Investigation Division, will no longer provide cassette tapes, and the duplication of cassette tape services will be phased out. Officers who choose to continue using tape recorders shall supply their own cassette tapes. All duplications made by the Electronics Unit shall be in digital format and the original cassette tapes shall not be returned to the requestors.

- *While recording, either during or following the contact, verbally identify themselves, the date and time, and the name of the person or persons being recorded;*
- *Activate the recorder as soon as possible, consistent with officer safety and prudent field tactics. Once activated, the recorder shall remain on for the remainder of the contact;*

Note: If the contact is interrupted (e.g., officer returns to the police vehicle to write a citation or do a warrant check and there will be no contact with the person involved for several minutes), the recorder may be stopped and restarted upon continuing the conversation.

- *As soon as practicable, notify responding emergency and Department personnel of the ongoing recorded contact;*
- *Ensure that an entry is made on the Computer Aided Dispatch (CAD) System, Daily Field Activities Report (DFAR), Form 15.52.00, Traffic Daily Field Activity Report, Form 15.52.01, Sergeant's Daily Report, Form 15.48.00, Metropolitan Division Officer's Log, Form 15.52.04, or Gang Enforcement Detail – Supervisor's Daily Report, Form 15.49.00, and place an "A" for audio, or an "R" for media recorder in a circle at the end of the recorded person's name on the DFAR; and,*
- *Make recordings available in a timely manner for audit and administrative review at the request of a Department supervisor.*

Authorization to use personal *audio/video* recorders to record *in-person* community contacts may be revoked by the commanding officer if an officer fails to comply with the provisions of this section.

Officers shall not record telephone conversations except in accordance with existing law and Department electronic surveillance guidelines (*Department Manual Section 3/568*).

Recordings of Contacts Resulting in Complaints and Civil Lawsuits. Whenever an incident is recorded and *the recording involves a personnel complaint; or, the recording involves a civil suit against the City, the Department, or the officer, the following shall apply:*

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- The fact that a recording was made shall be documented in the related reports, discovery questionnaires, *and* Employee's Report, Form 15.07.00 (civil suits); *and*,
- Officers shall provide *the recorded media* containing information relevant to personnel investigations and civil suits to personnel complaint/civil suit investigators upon request under existing Department complaint investigation procedures.

Note: Officers shall, upon their request, be provided with a copy of *the surrendered recorded media*. The concerned investigator shall have *the surrendered recorded media* copied at Technical Investigation Division and provide the requested copy to the officer.

Recordings of Contacts Resulting in Arrest or Crime Reports. When a recording becomes part of an arrest or crime report, officers shall follow the procedures outlined in Department Manual Section 3/566.10, *Use of Personal Recording Devices During Criminal Investigations*.

Retention of Recordings. Recordings shall be retained and maintained by the officer making the recording for a minimum of **two years**. However, recordings associated with criminal investigations shall be downloaded and booked using the procedure outlined in Department Manual Section 3/566.10.

Supervisor's Responsibilities. Supervisors shall conduct random *inspections* of *recorded media* and recordings made by officers to ensure compliance with these procedures.

Commanding Officer's Responsibilities. Commanding officers shall review and evaluate each Request to Use a Personal *Recording Device* on a case-by-case basis. If a request is denied, the commanding officer shall document the reason for the denial and ensure that the officer is notified.

Upon being notified via an *Employee's Report, Form 15.07.00*, that an officer desires to discontinue recording *in-person* community contacts, commanding officers shall ensure that the approved Request to Use a Personal *Recording Device* is removed from the officer's divisional *employee folder*, as well as the officer's personnel package maintained at *Personnel Division*, and filed in the *Area/division* files for storage in accordance with records retention guidelines for original documents.

When an officer is transferred to another command, the Request to Use a Personal *Recording Device Form* maintained in the *Area/division* file, shall be transferred to the new assignment with the officer. The form shall be maintained in the *Area/division* files at the new command and a copy kept at *Personnel Division*.

Technical Investigation Division's Responsibilities. Technical Investigation Division shall produce copies of *recorded media* in response to requests related to discovery, administrative or criminal investigations, and duty-related civil suits, except as previously noted in this section.

Request to Use a Personal Recording Device☐ **Employee Request**

| | | |
|------------------|----------------|------------------------------|
| EMPLOYEE'S NAME: | SERIAL NUMBER: | AREA/DIVISION OF ASSIGNMENT: |
|------------------|----------------|------------------------------|

I understand that I am authorized to use a personal recording device to record community contacts in accordance with Department guidelines for the use of recording devices. I have read and agree to comply with each of the requirements listed below. I understand that failure to comply with the below requirements will be considered misconduct.

Recording devices must be used in compliance with the provisions of this request and the procedures contained in Department Manual Section 3/570, Recording of Community Contacts.

(Initial)

Failure to comply with Department procedures for the use of recording devices will result in this authorization being revoked and may result in discipline.

(Initial)

The audio recorder, compact discs (CDs), Digital Versatile Discs (DVDs), and/or cassette tapes are to be provided and maintained at my own expense.

(Initial)

Audios, CDs, DVDs and cassette tapes must be retained by me for at least two years. The recordings must be produced upon request when needed for criminal prosecutions or investigations relating to criminal, personnel complaint investigation, or civil lawsuit matters, even if there may be self-incriminating material on the recordings.

(Initial)

My recordings and record keeping system must be made available for an audit/inspection or administrative review by a Department supervisor upon request.

(Initial)

Failure to provide a specific recording in a timely manner to a supervisor upon their request is neglect of duty and may result in discipline.

(Initial)

When feasible, it is my responsibility to notify responding emergency and Department personnel of an ongoing recorded contact.

(Initial)

I am not permitted to record non-duty related contacts. Recording of non-duty related contacts without consent is illegal and may expose me to discipline and criminal sanctions.

(Initial)

When my recording becomes part of a criminal investigation, I will transfer and book the recordings following the procedure outlined in Manual Section 3/566.10.

(Initial)

Signature of Employee: _____

Date: _____

COMMANDING OFFICER

☐

APPROVED

☐

DENIED

Signature: _____

Date: _____

If denied, reason for denial: _____